

109TH CONGRESS
2D SESSION

S. 3788

To clarify Federal law to prohibit the dispensing, distribution, or administration of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2006

Mr. BROWNBACK introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To clarify Federal law to prohibit the dispensing, distribution, or administration of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Assisted Suicide Pre-
5 vention Act of 2006”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 Congress finds that—

1 (1) the use of certain narcotics and other drugs
2 or substances with a potential for abuse is strictly
3 regulated under the Controlled Substances Act;

4 (2) the dispensing, distribution, or administra-
5 tion of certain controlled substances only by properly
6 registered practitioners and only for legitimate med-
7 ical purposes are permitted under the Controlled
8 Substances Act;

9 (3) the dispensing, distribution, or administra-
10 tion of controlled substances to assist suicide or eu-
11 thanasia are not legitimate medical purposes and are
12 not permissible under the Controlled Substances
13 Act;

14 (4) the dispensing, distribution, or administra-
15 tion of controlled substances for the purpose of re-
16 lieving pain and discomfort are legitimate medical
17 purposes and are permissible under the Controlled
18 Substances Act;

19 (5) inadequate treatment of pain, especially for
20 chronic diseases, irreversible diseases such as cancer,
21 and end-of-life care, is a serious public health prob-
22 lem affecting hundreds of thousands of patients
23 every year and physicians should not hesitate to dis-
24 pense, distribute, or administer controlled substances
25 when medically indicated for those conditions; and

1 (6) for the reasons set forth in section 101 of
2 the Controlled Substances Act (21 U.S.C. 801), the
3 dispensing, distribution, or administration of con-
4 trolled substances for any purpose, including that of
5 assisting suicide or euthanasia, affects interstate
6 commerce.

7 **SEC. 3. USE OF CONTROLLED SUBSTANCES TO ASSIST SUI-**
8 **CIDE.**

9 Section 303 of the Controlled Substances Act (21
10 U.S.C. 823) is amended by adding at the end with the
11 following:

12 “(i)(1) It shall be unlawful for any practitioner to in-
13 tentionally dispense, distribute, or administer a controlled
14 substance for the purpose of assisting suicide or causing
15 the death of a person.

16 “(2) Alleviating pain or discomfort in the usual
17 course of professional practice is a legitimate medical pur-
18 pose for the dispensing, distributing, or administering of
19 a controlled substance that is consistent with public health
20 and safety, even if the use of such substance may increase
21 the risk of death.

22 “(3) Any practitioner who violates paragraph (1),
23 upon a finding that a controlled substance was dispensed,
24 distributed, or administered for the stated or undisputed

1 purpose of assisting suicide or causing the death of a per-
2 son—

3 “(A) shall have any registration under this Act
4 revoked; and

5 “(B) shall not be registered under this Act.

6 “(4) In any proceeding under this subsection, the At-
7 torney General shall have the burden of proving, by clear
8 and convincing evidence, that the intent of the practitioner
9 was to dispense, distribute, or administer a controlled sub-
10 stance for the purpose of assisting suicide or causing the
11 death of a person. In meeting such burden, it shall not
12 be sufficient to prove that the practitioner knew that the
13 use of controlled substance may increase the risk of death.

14 “(5) This subsection does not apply to dispensing or
15 administering a controlled substance for the purpose of
16 carrying out a criminal sentence of death that is author-
17 ized under Federal or State law.

18 “(6)(A) Except as provided in subparagraph (B),
19 nothing in this subsection may be construed to—

20 “(i) alter the roles of the Federal Government
21 or State governments in regulating the practice of
22 medicine, including that, regardless of whether the
23 Attorney General determines under this subsection
24 that a practitioner has violated paragraph (1), it re-
25 mains solely within the discretion of State authori-

1 ties to determine whether action should be taken
2 with respect to the State professional license of the
3 practitioner or State prescribing privileges;

4 “(ii) modify the Federal requirements that a
5 controlled substance be dispensed only for a legiti-
6 mate medical purpose; or

7 “(iii) provide the Attorney General with the au-
8 thority to issue national standards for pain manage-
9 ment and palliative care clinical practice, research,
10 or quality.

11 “(B) The Attorney General may take such actions as
12 may be necessary to enforce this subsection.”.

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